

JEROME J CASIMIR,
Plaintiff,

$$V_S$$

BRIDGECREST ACCEPTANCE CORPORATION,
DriveTime Automotive Group, Inc.; DriveTime Car,
Sales Company LLC and CARVANA LLC.
Defendants.

No. 20-cv-00274

Honorable Judge
J P Stadtmueller, Presiding

**MOTION FOR 30 DAY EXTENSION
OF TIME, IN WHICH, TO FILE
PLAINTIFFS RESPONSE TO
DEFENDANTS MOTION TO DISMISS**

payments and no monthly payments were missed upon this account, and in this case Defendants attempts are to not follow any bankruptcy laws but to apply adverse action because of the filing.

Lawsuit were filed by plaintiffs. In attempts to mitigate damages, and attempted settlement was talked about upon telephone conversation to avoid further litigation, wherein, defendants were to refund plaintiffs court fees and correct trade line reporting immediately, in which, none of these action were done properly and a scheme by defendants and was made against plaintiffs will or against the law, or that the judge did not respond to the facts provided in a logical manner.

The great majority of derivative actions are resolved by settlement, and such settlements are particularly favored by the courts because derivative actions are “notoriously difficult and unpredictable” (*Maher v. Zapata Corp.*, 714 F.2d 436, 455 (5th Cir. 1983), citing *Schimmel v. Goldman*, 57 F.R.D. 481, 487 (S.D.N.Y. 1973)).

The standard of review used by a court when considering approval of the settlement of a derivative action is similar to that used by courts when approving class action settlements: “In reviewing the settlement of a derivative suit, the Court must assess, using its business judgment, whether the settlement terms are fair, reasonable, and adequate” (*Ryan ex rel. Maxim Integrated Prods. v. Gifford*, No. 2213- CC, 2009 Del. Ch. LEXIS 1, at *16 (Del. Ch. Jan. 2, 2009)). In making this assessment in *Stepak v. Ross*, 11 Del. J. Corp. L. 1011 (Del. Ch. 1985) (*Stepak*), the Delaware Court of Chancery took into account “the nature of the claim, possible defenses and the legal and factual obstacles facing plaintiffs in the event of trial” and concluded that the proposed settlement of the derivative shareholder claims in several consolidated actions was “fair to all concerned” (*Stepak* at 1017–19).

Although a bankruptcy court is required to hold a hearing, it is not required to conduct an independent investigation or a mini trial on the merits (*In re Drexel Burnham Lambert Group, Inc.*,

134 B.R. 493, 496 (S.D.N.Y. 1991) (Drexel)). Instead, the court must “make an informed, independent judgment as to whether a settlement is ‘fair and equitable’ and ‘in the best interests of the estate’” (Drexel at 496, quoting Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414 (1968), reh. denied, Protective Committee for Independent Stockholders etc. v. Anderson, 391 U.S. 909 (1968), on remand, TMT Trailer Ferry, Inc. v. Kirkland, 471 F.2d 10 (5th Cir. 1972)).

Wherefore plaintiffs request the court allow a thirty (30) day extension of time, in which, to file a response to defendants reply to and on January 7, 2021, and/or set a briefing scheduling in this case, and/or deny plaintiff request for dismissal.

Respectfully submitted



JEROME CASIMIR

Mr. JEROME CASIMIR, Plaintiff
3229 N 83nd ST
MILWAUKEE WI 53222
414-998-9272
Casimirj3620@gmail.com

UNITED STATES COURTS
EASTERN DISTRICT OF WISCONSIN
FILED

DEC - 8 2020

11:59 PM
AFTER HOURS